

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**WRIT PETITION NO. 978 OF 2013**

Imtiyaz Yarkhan S/o Khalandar yarkhan  
and others .. Petitioners

**Versus**

The State of Maharashtra and Others .. Respondents

Shri D. P. Palodkar, Advocate for Petitioners.  
Shri S. N. Morampalle, A.G.P. for the Respondent No. 1.  
Shri Atul M. Karad, Advocate for Respondent Nos. 2 and 3.

**CORAM : S. V. GANGAPURWALA AND  
A. M. BADAR, JJ.**

**DATE : 27TH JANUARY, 2016.**

**PER COURT :**

. Mr. Palodkar, the learned counsel submits that, the present writ petition was filed on the basis of the apprehension that the respondent Nos. 2 and 3 would demolish the construction of the petitioners without adhering to the provisions of law, as the other properties were demolished by respondents No. 2 and 3. The learned counsel submits that, this Court vide order dated 04th February, 2013, had recorded the assurance of respondent Nos. 2 and 3 that they will not demolish the properties of petitioners mentioned in para 2 of the petition. The learned counsel further states that, subsequently even the respondents demolished the

part of the properties mentioned in para 2 of the petition, for which contempt is also filed.

2. Mr. Karad, the learned counsel for the Corporation submits that, the properties which were demolished, were adjacent to the properties mentioned in para 2 of the petition and were unauthorized construction like tapries etc. Mr. Karad, the learned counsel submits that, the properties mentioned in para 2 of the writ petition, if at all they are required for development purpose, the same will taken after following due procedure of law.

3. Whether the work which was demolished was in respect of properties mentioned in para 2 of the petition or were adjacent to the same would be a disputed question of fact, which cannot be gone into in this petition. Mr. Palodkar, the learned counsel also prayed for compensation to be granted for the illegal demolition. The petitioners are at liberty to take such proceedings before the Civil Court as may be permissible in law. For the said purpose and in that event all contentions are kept open.

4. In view of the statement made in para 7 of the affidavit in reply filed by respondent Nos. 2 and 3 that they would adhere to the due process of law, if they want the properties mentioned in para 2 of the petition for development purpose. The purpose of

the writ petition stands sub-served.

4. In light of that, writ petition is disposed of. No costs.

**[ A. M. BADAR, J. ]**

**[ S. V. GANGAPURWALA, J. ]**

bsb/Jan. 16